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Rulemaking 06-03-004
(Filed March 2, 2006)

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA**

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Order Instituting Rulemaking Regarding Policies,)	
Procedures and Rules for California Solar)	
Initiative, the Self-Generation Incentive Program)	Rulemaking 06-03-004
and Other Distributed Generation Issues.)	(Filed March 2, 2006)
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**OPENING JOINT COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY
(U 338-E) AND SAND DIEGO GAS & ELECTRIC COMPANY (U 902-E) ON THE
PROPOSED DECISION OF COMMISSIONER PEEVEY ADDRESSING
COMMUNITY CHOICE AGGREGATION NET ENERGY METERING
SERVICE OPTION**

I.

INTRODUCTION AND SUMMARY

Pursuant to Rule 14.3 of the Rules of Practice and Procedure of the California Public Utilities Commission (Commission), Southern California Edison Company (SCE) and San Diego Gas & Electric (SDG&E), (collectively, the Joint Utilities), respectfully file these Opening Comments to the Proposed Decision (PD) of Commissioner Peevey Addressing Community Choice Aggregation (CCA) Net Energy Metering (NEM) Service Option.

The Joint Utilities support the option of eligible CCA customers participating in NEM – without subsidy by non-CCA customers – for interconnected distributed generation in the same manner that the Joint Utilities’ bundled service customers are credited for the output of such

distributed generation under their NEM tariffs.¹ The PD adopts the position that “the utilities [must] offer CCA customer-generators the same NEM service it offers its own customers.”² Pursuant to this directive, the Joint Utilities note that the PD corrects several technical errors contained in the ALJ’s Ruling, including the statutory limitation placed on the receipt of full-bundled credits to solar installations and wind turbines up to 50kW. Consistent with the Joint Utilities’ treatment of their bundled service NEM customers, CCA customer-generators using biogas, fuel cell technologies, and wind sized 50 kW to 1 MW will receive only a generation credit from the CCA.

The Joint Utilities submit the following opening comments on the PD to clarify three points: (i) the utilities’ bundled service customers should not be forced to subsidize CCA customers via increased incremental costs for billing or other transaction costs incurred to accommodate a CCA’s NEM customers; (ii) CCA customer-generators who generate more energy than they consume over a one-year period will be given credits (generation and/or T&D, as applicable) up to the amount of energy consumed by the customer-generator (*i.e.*, just like bundled-service customers on the NEM tariff, no credit will be given for excess generation above the customer’s actual annual energy consumption)³; and (iii) the PD’s Ordering Paragraphs must be rewritten and simplified to ensure the utilities can properly implement the Commission’s intent for CCA net metered customers – including variances related to generation types/size and the need for consistency with the CCA billing rules reflected in Rule 23 for SCE and Pacific Gas and Electric Company (PG&E) and in Rule 27 for SDG&E.

¹ The NEM tariffs are limited to solar installations, wind turbines, biogas digesters, and fuel cells under 1 MW that are designed to meet no more than a customer’s on-site load.

² PD at 6.

³ See SCE’s Schedule NEM at para. 3.g; SDG&E’s Schedule NEM at para. 3.

II.

THE UTILITIES' BUNDLED SERVICE CUSTOMERS MUST NOT BE FORCED TO SUBSIDIZE CCA CUSTOMERS

The PD improperly rejects the Joint Utilities' requests that increased billing costs that arise as a result of implementing the NEM option for CCA customers be passed through to the CCA. Instead, the PD expressly requires the utilities to pass all immediate and future increased billing costs created by introducing this option to all of their customers (including bundles service customers) via their next general rate case (GRC). However, the plain language of the CCA statute does not provide for such an outcome, and it is unfair for the Joint Utilities' non-CCA customers to shoulder any burden no matter how small. The effect of this decision is to shift some of the implementation costs to the utilities' non-CCA customers. The PD states:

We clarify here that CCAs already pay a share of billing costs in their transmission and distribution rates. If the costs of billing increase as a result of this order, those costs should be very small in the near term because few CCAs are expected to begin serving their customers soon and, accordingly, CCA customer-generators are likely to be few. Under the circumstances, the appropriate place for the utilities to identify and seek recovery of billing costs is the general rate case, consistent with D.04-12-046.⁴

However, the law requires all reasonable transaction-based costs, including billing, to be recovered from the CCA regardless of whether the amount is small or large. Section 366.2 of the California Public Utilities Code states:

All reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers shall be recovered from the aggregator or its customers on terms and at rates to be approved by the Commission.⁵

⁴ PD at 6.

⁵ Pub. Util. Code § 366.2(c)(17).

Moreover, in Assembly Bill (AB) 117, the California Legislature made clear that there should be no cost shifting to non-CCA customers as a result of a CCA program, stating: “It is the intent of the Legislature to prevent any shifting of recoverable costs between customers.”⁶ Thus, the appropriate mechanism for the utilities to recover their incremental billing costs arising from implementing NEM for CCA customers is not from all customers in the GRC, but through an advice letter or other appropriate regulatory filing to the Commission seeking cost recovery from the CCA or its customers.

The plain language of the statute is clear: reasonable transaction-based costs provided by a utility to a CCA shall be recovered from the CCA or its customers. In this case, the Joint Utilities will incur reasonable costs to provide NEM service to CCA customer-generators. For example, billing requirements will include identifying NEM CCA customers, collecting generation credit information from the CCAs, and passing through the generation credits. Consistent with AB117, the Commission already established a record in the CCA rulemaking (R.03-10-003) that found CCAs responsible for transaction costs for services provided by the utility that would otherwise not be recovered, that the utilities will incur incremental costs related to CCA billing, and that the utilities must be able charge the CCA for incremental costs through service fees.⁷ The PD’s position that a potentially small cost or small number of CCA NEM customers warrants shifting costs to non-CCA customers and deferring cost recovery to the utility’s next GRC is not supported by AB117 or Commission decisions. The CCA NEM billing activities will create incremental costs which are not currently being recovered and as such should be recovered from the CCA. As a result, the utilities

⁶ Pub. Util. Code § 366.2(d)(1).

⁷ In D.04-12-046, the Commission found: “Section 366.2(c)(17) requires that ‘all reasonable transaction-based costs of notices, billing, metering, collections, and customer communications or other services provided to an aggregator or its customers be recovered from the CCA or its customers in rates.’” (pg. 12). “We agree with the utilities that the CCA program will impose incremental billing costs beyond those that are already included in utility revenue requirements.” (pg. 17); and, “The utilities should be ordered to charge CCAs for transaction costs in tariffs that include charges based on incremental costs.” (COL 4). In D.05-12-041, the Commission found: “Service fees for utility services to CCAs. We adopt utility charges and fees for such activities as opt-out processing, customer transfers of service, billing services, customer contacts, data processing and management, and confirmation letters to customers. Consistent with our order in Phase 1 of this proceeding, we adopt cost-based rates for services that impose costs on utilities that would not otherwise occur and which are not otherwise being recovered.” (pg. 6).

should be allowed to seek full recovery of these costs from the CCAs via an advice letter filed with the Commission. Accordingly, the Joint Utilities urge the Commission to adopt the following revisions to the PD's Findings of Fact and Conclusions of Law:

Findings of Fact 3

Delete:

~~“The utilities have not demonstrated that offering the subject NEM service to CCA customer-generators will increase their costs in ways that would justify reviewing costs outside of the general rate case.”~~

Conclusions of Law 2

Delete:

~~“To the extent the provisions of this order cause a utility to incur additional costs, the utility should seek recovery of those costs in its general rate case.”~~

Insert:

“To the extent the provisions of this order causes a utility to incur reasonable transaction costs as result of a CCA customer receiving NEM services, the Commission will allow the utility to seek recovery of those costs from the CCA or its NEM customers.”

III.

THE JOINT UTILITIES WILL TREAT CCA-NEM CUSTOMERS JUST LIKE THEY TREAT THEIR BUNDLED SERVICE CUSTOMERS IN THE PROVISION OF CREDITS FOR GENERATION

The Joint Utilities seek to clarify through these comments that the PD's directive that “the utilities [] modify their tariffs to treat CCA customer-generators as they treat their own customer-generators for purposes of NEM service”⁸ includes the cancellation of credits related to energy generation that exceed a customer's annual energy consumption. The Joint Utilities interpret this directive as consistent with its NEM tariff and consistent with Public Utilities Code Section 2827(h)(3):

At the end of each 12-month period, where the electricity generated by the eligible customer-generator during the 12-month period exceeds the electricity supplied by the electric service provider during

⁸ PD at 6.

that same period, the eligible customer-generator is a net electricity producer and the electric service provider shall retain any excess kilowatthours generated during the prior 12-month period. The eligible customer-generator shall not be owed any compensation for those excess kilowatthours unless the electric service provider enters into a purchase agreement with the eligible customer-generator for those excess kilowatthours.⁹

Respectfully, the Joint Utilities believe that the following sentences at pages 6-7 of the PD potentially conflict with Section 2827(h)(3): “CCA customer-generators with solar generators up to 1 MW, and wind generators up to 50 kW will qualify for a bundled credit for power calculated over the course of a year. The CCA in such cases will inform the utility of the applicable generation rate for the credit, and the utility will pass the credit on to the customer-generator. The utility will credit the bundled transmission and distribution rates to the CCA for power.” For clarity, the Joint Utilities recommend that this section be rewritten as follows: “CCA customer-generators with solar generators up to 1 MW, and wind generators up to 50 kW will be eligible for a bundled credit up to the amount of energy consumed by the customer-generator over the course of one year. The CCA in such cases will inform the utility of the applicable generation credit, and the utility will pass the credit on to the customer-generator. The utility will provide a credit for the bundled transmission and distribution charges as set forth in the applicable NEM schedule to the CCA customer-generator’s bill.”¹⁰

⁹ Pub. Util. Code § 2827(h)(3).

¹⁰ This modification also clarifies that the NEM transmission and distribution credit is provided by the utility to the CCA NEM customer and not the CCA because the utility bills the CCA customers and not the CCA itself.

IV.

THE PD'S ORDERING PARAGRAPHS SHOULD BE SIMPLIFIED TO PERMIT THE UTILITIES TO IMPLEMENT THE PROPER CCA BILLING PRACTICES FOR ALL CCA CUSTOMERS

The Ordering Paragraphs on pages 8 and 9 of the PD are confusing and contradicted by the established billing practices between the utilities and CCAs. First, the Ordering Paragraphs do not take into consideration that the annual payment option does not apply to all NEM customers. Second, as described above, the Ordering Paragraphs do not take into consideration that NEM customers have varying payment alternatives based on the type of NEM generation, however in all cases, at the end of the 12-month period (annual true-up) all excess generation credits must be cancelled. Third, the Ordering Paragraphs would require the utilities to calculate the CCA's NEM credit. Under the bill-ready billing option in Rule 23 for SCE and PG&E, and Rule 27 for SDG&E, the CCA must provide to the utility all applicable NEM bill charges or credits for generation¹¹ to be passed on to the customer by the utility. Without the above clarifications, the utilities will not be in compliance with existing CCA rules, will incur significantly higher billing related incremental costs, and may be required to make extra billing system changes in order to support an unnecessarily more complex process than needed to meet the Commission's intent for CCA NEM customers.

Consistent with these points, the Joint Utilities recommend that the Ordering Paragraphs on pages 8 and 9 of the PD be simplified to permit the utilities to file their tariffs in a manner consistent with their NEM tariffs, with the billing requirements applicable to bundled service NEM customers, and with the CCA billing options reflected in Rule 23 for SCE and PG&E and in Rule

¹¹ CCA Rule 23/27 P.1.b(1) states "The Utility shall calculate the utility charges and send the bill either by mail or electronic means to the customer. The Utility shall include CCA charges on the bill. ***The Utility is not responsible for computing or determining the accuracy of the CCA charges on the bill.***" (Emphasis added).

27 for SDG&E. Specifically, the Joint Utilities recommend the following revisions be made to the Ordering Paragraphs on pages 8 and 9 of the PD:

Delete and Replace Ordering Paragraph (OP) 1 (including sub-parts) as follows:

1. Pacific Gas and Electric Company, Southern California Edison Company, and San Diego Gas & Electric Company shall, within 20 days of the effective date of this order, submit tariff changes to implement “Net Energy Metering” (NEM) for customer-generators that are served by Community Choice Aggregators (CCA) consistent with NEM service to bundled service customer-generators and consistent with CCA rules as described in Rule 23 for SCE and PG&E and Rule 27 for SDG&E.

Append to OP 2 as follows:

2. Biogas and fuel cell generators and wind generators with capacity of more than 50 kW but less than 1 MW receive only the generation component of the rate as a credit consistent with the utilities’ NEM service to bundled service customer-generators. The CCA is responsible for providing the CCA customer-generator with the applicable generation-related bill credit.

Insert New OP 3 as follows:

3. The CCA will be responsible for timely providing the applicable generation-related bill charges or credits for each CCA customer-generator to the utility. The utilities will be responsible for providing an eligible CCA customer-generator with transmission and distribution (T&D) bill credits.

Renumber current OPs 3 and 4 as 4 and 5, respectively.

By making the changes to OP 1 suggested above, the sub points to OP 1 in the PD are no longer necessary. These sub points included an unnecessary and confusing level of detail that conflicted with the principle that CCA NEM customers should be treated the same as bundled service NEM customers. The proposed OP 1 clearly prescribes the Commission’s board intent that relates to all parties and provides the necessary guidance to the utilities. The utilities can ensure proper implementation within tariff specifics that will need to consistent with differing rules for generator type/size, CCA billing rules, and fit each utility’s normal course of business, with

Commission review to ensure consistency. Moreover, removing the billing sub-bullet details will preserve the Commission's intent, and eliminate the need to modify the decision if for some reason billing processes need to change in the future. For these reason, the utilities urge the Commission to adopt the recommended simplified ordering paragraphs.

If, however, the Commission decides to include variations of the sub points in its final decision, then the Joint Utilities recommend the following corrections be incorporated in order to remain in compliance with Public Utilities Code Section 2827, the utilities' NEM tariffs, and Rule 23/27:

(OP 1 sub points)

- The CCA will inform the utility of the CCA generation charges or credits rate applicable to any applicable NEM CCA customer generators. ~~bill credits~~. The CCA will be responsible for the applicable generation-related bill credit structure associated with this service option and providing the CCA customer-generator with the applicable generation-related bill credit. For utilities offering rate-ready billing, the generation (kWh) rate component provided by the CCA will be used to calculate the applicable bill charges or credits.
- At the end of every 12-month billing period, the utility and CCA shall ~~calculate the difference between electricity supplied through the electric grid and the electricity generated by the CCA customer-generator and fed back to the electric grid~~ complete an annual true up of all charges and credits calculated monthly, consistent with the appropriate net energy metering tariff. ~~and a eCredits and charges will be amount~~ based on the CCA's generation (kWh) rate and the utility's transmission and distribution rates, as applicable.
- Any net balance related to generation charges that are collected from an NEM eligible CCA customer-generator ~~The credit related to the CCA customer-generator's power~~ will be paid ~~annually~~ by the utility to the CCA as set forth in ~~each utility's~~

Rule 23.Q for PG&E and SCE and Rule 27.Q for SDG&E, which describes the payment and collection terms between the serving utility and a CCA customer.

V.

CONCLUSION

The Joint Utilities appreciate the opportunity to submit these Opening Comments on the PD. The Joint Utilities support NEM for CCA customer-generators without a subsidy by non-CCA customers. Therefore, the Joint Utilities respectfully request that the Commission approve the PD after incorporating the comments set forth herein.

Respectfully submitted,

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February 4, 2008

CERTIFICATE OF SERVICE

I hereby certify that, pursuant to the Commission's Rules of Practice and Procedure, I have this day served a true copy of the Opening JOINT COMMENTS OF SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) AND SAN DIEGO GAS & ELECTRIC COMPANY (U 902-E) ON THE PROPOSED DECISION OF COMMISSIONER PEEVEY ADDRESSING COMMUNITY CHOICE AGGREGATION NET ENERGY METERING SERVICE OPTION on all parties identified on the attached service list(s). Service was effected by one or more means indicated below.

Transmitting the copies via e-mail to all parties who have provided an e-mail address. First class mail will be used if electronic service cannot be effectuated.

Executed this **4th day of February, 2008**, at Rosemead, California.

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